UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CONSTANTIN CIONCA, : 15-CV-5123 (BCM)

Plaintiff, : April 7, 2016

v. : 500 Pearl Street

INTERACTIVE REALTY, LLC., et al., : New York, New York

Defendants. :

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TRANSCRIPT OF CIVIL CAUSE FOR SETTLEMENT
BEFORE THE HONORABLE BARBARA C. MOSES
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: ADAM SACKOWITZ, ESQ.
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For Defendants: ROBERT SPARER, ESQ.
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Proceedings recorded by electronic sound recording, transcript produced by transcription service

THE CLERK: This is 15-CV-5123, Constantin Cionca v. Interactive Realty, LLC, et al. Barbara Moses presiding.

THE COURT: Gentlemen, please be seated.

It is now 7:40 in the evening. We have had a long afternoon together negotiating settlement and part of the evening as well and I am happy to be able now to put -- to be on the record for the purpose of putting the parties settlement on the record.

I commend both the parties and the counsel on both sides for their hard work over many hours and their ability to make difficult decisions under pressure in what I think is a very, very sound manner.

As I explained before we went on the record, I will ask first the attorneys and then the parties to confirm the material terms of the settlement that has been reached and to indicate that this is indeed a settlement that they are entering into of their own free will intending to be bound.

Once that is accomplished we will have a binding and enforceable settlement agreement save only for the necessary court approval under the federal statute, the FLSA.

I know it is the parties intention to reduce their agreement to a more formal writing which has more bells and whistles and you certainly should do that but if you are -- once you put the essential terms on the record before me orally again you will be bound if for any reason that written formal document doesn't happen save only for the necessary court approval.

So which attorney is prepared to put the material terms on the record?

MR. SPARER: I'd be happy to do so.

THE COURT: All right. Stand up. State your name for the record. Tell us who you represent and tell us what the deal is.

MR. SPARER: Thank you, Your Honor. This is Robert Sparer. I represent the defendants collectively.

The deal as I propose it and I believe it's been accepted is $90,000, $30,000 as an initial payment. The balance will be paid off in 18 monthly installments. It will be broken down subsequent to -- and put in writing once we determine the amount of pocket expenses and the allocations that were discussed of remainder of a third in attorney's fees and the rest to Mr. Cionca subject to our ability to allocate between liquidated damages or otherwise and wages. Appropriate deductions will be taken as required by law and we'll work cooperatively on that.

The parties will execute or the agreement will include mutual releases between the plaintiff and the defendants. It will include subject to the limitations of applicable law such confidentiality and non disparagement as may be permitted and there will be other elements that we need to put in.

The first payment two weeks after the fairness hearing is concluded and order approving the settlement.

THE COURT: Mr. Sackowitz, state your name for the record. Tell us who you represent and tell me whether you agree on the plaintiff's behalf to those terms or whether Mr. Sparer missed anything.

MR. SACKOWITZ: Thank you, Your Honor. My name is Adam Sackowitz. I represent the plaintiff Constantin Cionca.

Mr. Sparer's representation of the settlement terms are my understanding as well and are approved by Mr. Cionca.

THE COURT: Okay. Let me just state for the record what I've already stated off the record which is that many judges of this court, including myself, take the position that there is a very limited degree if any of confidentiality which is permissible in an FLSA settlement. For my own part, my view is that the settlement cannot restrict either party's ability to provide truthful information concerning either the facts underlying the case or the settlement of the case. I just want to be clear about that. I'm not the only judge in this courthouse and I'm not the district judge but that's -- that's where I come from on the issue.

MR. SPARER: Understood, Your Honor. We would accept any confidentiality agreement that was narrow enough to be permissible under Cheeks and under the applicable laws at the discretion of the court.

THE COURT: Mr. Cionca, you can just use that microphone right there on your table if it's turned on.

MR. CIONCA: Constantin Cionca.

THE COURT: You are the plaintiff in this action; correct?

MR. CIONCA: Yes.

THE COURT: Mr. Cionca, you've heard the attorneys put the settlement terms on the record?

MR. CIONCA: Yes, I did.

THE COURT: Do you understand those terms?

MR. CIONCA: I did. Yes, I do.

THE COURT: Do you agree to be bound by those terms?

MR. CIONCA: Yes.

THE COURT: Thank you, sir. Let me start then with Anthony Skrelja on the defendant's side. You can use either microphone.

MR. SKRELJA: I'll pretend I'm lawyer for five minutes.

THE COURT: How does it feel?

MR. SKRELJA: I don't know.

THE COURT: It looks good on you.

MR. SKRELJA: Thank you.

THE COURT: Mr. Skrelja, state your name for the record.

MR. SKRELJA: Tony Skrelja.

THE COURT: You are an individual defendant in this action; correct?

MR. SKRELJA: Correct, yes, Your Honor.

THE COURT: You are also a principal of the defendant known as Interactive Realty?

MR. SKRELJA: Yes, Your Honor.

THE COURT: You have authority to speak for Interactive Realty?

MR. SKRELJA: I do, Your Honor.

THE COURT: Okay, sir. Did you hear the attorneys put the settlement terms on the record?

MR. SKRELJA: I did.

THE COURT: Do you understand those terms?

MR. SKRELJA: I do.

THE COURT: On your own behalf do you agree to be bound by those terms?

MR. SKRELJA: I do.

THE COURT: on behalf of Interactive Realty, do you agree as well?

MR. SKRELJA: I do.

THE COURT: Thank you, sir.

MR. SKRELJA: Thank you.

THE COURT: Let me hear from John Skrelja.

MR. SKRELJA: Good evening, Your Honor.

THE COURT: Mr. Skrelja, please state your full name for the record.

MR. SKRELJA: John Thomas Skrelja.

THE COURT: You don't even have to raise your right hand although it's good practice. You never know; right?

You are an individual defendant as well in this case; correct?

MR. SKRELJA: Correct.

THE COURT: Did you hear the attorneys put the settlement terms on the record?

MR. SKRELJA: I did.

THE COURT: Do you understand those terms?

MR. SKRELJA: I do.

THE COURT: Do you agree to be bound by them?

MR. SKRELJA: I do.

THE COURT: Thank you, sir. Finally, Mr. Morley Kaye. Good evening again, Mr. Kaye. Can you hear me all right?

MR. KAYE: I hear you fine now.

THE COURT: Please state your name.

MR. KAYE: Morley Kaye.

THE COURT: You are both an individual defendant in this action and a principal of PJA Building; correct?

MR. KAYE: PJA Building LLC.

THE COURT: And also a principal of Kaye Levick

Realty Company, Inc.

MR. KAYE: Inc.

THE COURT: Okay. Did you hear the attorneys put the settlement terms on the record, sir?

MR. KAYE: I did.

THE COURT: Did you understand those terms?

MR. KAYE: I do.

THE COURT: On behalf of yourself do you agree to be bound by them?

MR. KAYE: I do.

THE COURT: On behalf of Interactive -- excuse me. On behalf of PJA do you agree to be bound?

MR. KAYE: I do.

THE COURT: And on behalf of Kaye Levick do you agree to be bound?

MR. KAYE: I do.

THE COURT: Thank you very much, gentlemen. We'll go off the record now. Good evening.

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I certify that the foregoing is a court transcript from an electronic sound recording of the proceedings in the above-entitled matter.

Shari Riemer, CET-805

Dated: July 28, 2016